

**Notice of Allowability**

Application No.

10/767,646

Examiner

Julian W. Woo

Applicant(s)

JACKSON, ROGER P.

Art Unit

3773

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the appeal brief of 4/2/10.
2. ☒ The allowed claim(s) is/are 1-3 and 5-14.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>20100629</u> . |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date _____    | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|  | 9. <input type="checkbox"/> Other _____.   |

### **EXAMINER'S AMENDMENT**

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone voice mail from John C. McMahon, Reg. No. 29,415; on July 1, 2010.

2. The application has been amended as follows:

In claim 1, line 13, delete "top to bottom," and in its place, insert --the top surface to the bottom surface--. In lines 26 and 27, delete "free of pass through openings so as," and in its place, insert --configured--.

In claim 5, line 4, after "top," insert --surface--.

In claim 7, line 3, delete "closure," and in its place, insert --body--. In lines 4 and 5, delete "a top to a bottom," and in its place, insert --the top surface to the bottom surface--.

In claim 10, line 3, after "top," insert --surface--.

In claim 11, line 4, after "bottom," insert --surface--. Also in line 4, after "top," insert --surface--.

In claim 14, line 4, after "having," insert --a radially outer surface that is threaded and--. In line 5, delete "an," and in its place, insert --a longitudinal--. In line 8, after "top," insert --and a bottom--. In lines 18 and 19, delete "free of openings," and in its place, insert --configured to block--.

3. The following is an examiner's statement of reasons for allowance: With respect to claims 1-3 and 5-13: None of the prior art of record, alone or in combination, discloses a closure plug including, inter alia, a body sized and shaped to be threadably received between and in the spaced arms of an implant head, the body including at least one bore spaced from and positioned between both a central axis and a periphery of the body; and a break-off head attached to the body, the break-off head being positioned so as to be axially located above the body and at least a portion of the bore and being configured to block axial access by a removal tool to the bore; where the bore extends generally axially entirely through the body from a top surface to a bottom surface.

With respect to claim 14: None of the prior art of record, alone or in combination, discloses a plug closure including, inter alia, a closure having a radially outer, threaded surface and at least a pair of bores each spaced from and positioned between both a longitudinal axis and a periphery of the closure; and a break-off head attached to the body, the break-off head being configured to block axial access by a removal tool to at least a portion of each of the bores; where each bore is accessible from a top and a bottom of the closure.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

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accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julian W. Woo whose telephone number is 571-272-4707. The examiner can normally be reached on M-TH:6:30-4:00; alt. Fri.: 6:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tan-Uyen (Jackie) Ho can be reached on 571-272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Julian W. Woo/  
Primary Examiner, Art Unit 3773